

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

CRIMINAL NO. 3:01CR195

UNITED STATES OF AMERICA

VS.

REGINALD IVAN McQUEARY

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ORDER

THIS MATTER is before the Court *sua sponte*.

The Defendant was sentenced by the undersigned on October 23, 2002, to a total prison term of 212 months after he pled guilty to a number of offenses including conspiracy to possess with intent to distribute cocaine base and the use of a handgun during a crime of violence. **Judgment in a Criminal Case, filed November 14, 2002.** On May 15, 2009, the Probation Office filed a Supplement to the Defendant's presentence report pursuant to the Crack Cocaine Guideline Amendment. **Supplement to the Presentence Report, filed May 15, 2009.** The Probation Office advises that although Defendant is eligible for a two-level reduction in his offense level pursuant to Amendment 706, his offense level "would actually

increase by one-level due to the multiple count grouping rules” provided by Guidelines § 3D1.4. *Id.* Therefore, the Probation Office has determined the Defendant would not receive a reduction in his sentence. *Id.* Because this recommendation is adverse to the Defendant, the Court will require a response from counsel.

IT IS, THEREFORE, ORDERED that Defendant’s counsel file response to the Supplement to the Presentence Report within 45 days from entry of this Order.

Signed: May 18, 2009



Lacy H. Thornburg
United States District Judge

